

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

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THE HIPSAVER COMPANY, INC., )  
Plaintiff, ) Civil Action No. 05-10917 PBS  
v. )  
J.T. POSEY COMPANY, )  
Defendant. )  
AND RELATED COUNTERCLAIM. )  
\_\_\_\_\_  
)

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**DISCLOSURE OF J.T. POSEY COMPANY  
PURSUANT TO FED. R. CIV. PROC. 26(a)(3)**

Pursuant to Rule 26(a)(3) of the Federal Rules of Civil Procedure, J.T. Posey Company, Inc. ("Posey") hereby makes the following pretrial disclosures. Posey reserves the right to revise or supplement these disclosures prior to trial.

3(A) and (B): Posey presently expects to call the following witnesses at trial:

Ms. Helen Brogna (may be by deposition)

Dr. Edward Ebramzadeh (may be by deposition)

Mr. Edward Goodwin (may be by deposition)

Mr. Creighton Hoffman

Ms. Victoria Lewis (may be by deposition)

Mr. Kevin Minissian (may be by deposition)

Mr. Gary Reich

Mr. Ken Tyler

Mr. Jeff Yates

Posey may call the following witnesses at trial if the need arises:

Mr. Vernon Armstrong (may be by deposition)

Dr. Jeffrey Burl (may be by deposition)

Mr. Roy Carr

Mr. Rick Clemons

Dr. Roy J. Epstein

Mr. William Flower

Mr. Philip Green

Dr. Wilson Hayes

Mr. Dominic Hunter

Mr. Charles Kline

Mr. Charles Nail (may be by deposition)

Mr. Ernest Posey

Ms. Leann Powers

Mr. Lee Rash

Mr. Tim Sturkie (may be by deposition)

A representative of Rogers Corporation (may be by deposition)

3(C) The documents and tangible things that Posey may use to support its claims or defenses at trial are set forth on the attached Exhibit List.

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Dated: May 1, 2007

J.T. POSEY COMPANY, INC.  
By its attorneys,

/s/ Anthony J. Fitzpatrick  
Anthony J. Fitzpatrick (BBO # 564324)  
DUANE MORRIS LLP  
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Jeffrey G. Sheldon, Admitted Pro Hac Vice  
Douglas H. Morseburg  
Admitted Pro Hac Vice  
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Pasadena, California 91103  
(626) 796-4000

**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to those indicated as non-registered participants on May 1, 2007.

/s/ Anthony J. Fitzpatrick

Anthony J. Fitzpatrick

**J.T. POSEY COMPANY'S RULE 26(a)(3)**

**TRIAL EXHIBIT LIST**

**POSEY EXHIBITS**

<b>Ex. No.</b>	<b>Will Use</b>	<b>May Use</b>	<b>Description</b>
	X		"Validation and Testing" page from HipSaver's Internet Website
	X		"Hip Protectors and the Laundry" page from HipSaver's Internet Website
Ex.1	X		Article: HipProtector Compliance: A 13- Month Study on Factors and Cost In a Long-Term Care Facility by Burl, et al.
Ex. 4	X		Partial Guidelines for Environmental Infection Control in Health-Care Facilities
Ex. 5	X		Guidelines for Laundry In Health Care Facilities
Ex. 7	X		Settlement Agreement (PC 0365-373)
Ex. 8	X		Letter dated 04/09/96 and results of impact test
Ex. 9	X		Interpretation of Biomechanical Testing of HipSaver Dual-mechanism Shunting/Absorbing airPad (HS2 0046-49)
Ex. 10	X		Article: Hip Pads: Effective Fracture Prevention by Gross, et al. (HS2 0043-45)
Ex. 13	X		Hipaver approximate units sold per year (HS2 0034)
Ex. 14	X		HipSaver Complaint
		X	Email dated 05/14/02 from E. Goodwin to E. Posey (PC 0201)
Ex. 16		X	Email dated 05/15/02 from E. Goodwin to E. Posey
		X	Email string dated 05/18/07 from E. Posey to M. Keefe, et al. (PC 0192-194)
Ex. 17		X	Email dated 05/21/02 from E. Goodwin to E. Posey (PC 0187-189)
Ex. 18		X	Email string dated 05/22/02 from E. Posey to E. Goodwin
Ex. 19		X	Email dated 05/23/02 from E. Goodwin to E. Posey (PC 0184-186)

**POSEY EXHIBITS**

<b>Ex. No.</b>	<b>Will Use</b>	<b>May Use</b>	<b>Description</b>
Ex. 21		X	Email string dated 06/01/02 from E. Posey to E. Goodwin (PC 0179-183)
Ex. 22		X	Email string dated 06/01/02 from E. Goodwin to E. Posey (PC 159-163)
Ex. 23		X	Email string dated 06/03/02 from E. Posey to E. Goodwin (PC 0152-158)
Ex. 24	X		Email dated 06/16/02 from E. Goodwin to E. Posey (PC 135-137)
Ex. 25	X		Email string dated 06/17/02 from E. Posey to E. Goodwin (PC 127-130)
Ex. 26		X	Email dated 08/01/02 from E. Goodwin to E. Posey
Ex. 28		X	Letter dated 02/11/03 from E. Posey to E. Goodwin
Ex. 29		X	Email dated 02/18/03 from E. Goodwin to T. Vella (PC 0121-123)
Ex. 30		X	Email dated 02/19/03 from E. Goodwin to T. Vella
Ex. 32		X	Email date 03/15/03 from E. Goodwin to E. Posey (PC 0113-114)
Ex. 37	X		Email dated 03/18/05 from E. Goodwin to E. Posey (PC 0099-100)
Ex. 39	X		Email dated 03/21/05 from E. Goodwin to E. Posey (PC 0095-96)
Ex. 42	X		Email dated 04/02/05 from E. Goodwin to E. Posey
Ex. 44	X		2004 HipSaver Catalog (HS2 0020-27)
Ex. 55		X	Partial 2001 HipSaver Tax Return (HS2 0081-82)
Ex. 56		X	Partial 2002 HipSaver Tax Return (HS2 0082-83)
Ex. 57		X	Partial 2003 HipSaver Tax Return (HS2 0084-85)
Ex. 58		X	Partial 2004 HipSaver Tax Return (HS2 0086-87)
	X		Environmental Test Report dated 08/07/01 (PC 001-074)

**POSEY EXHIBITS**

<b>Ex. No.</b>	<b>Will Use</b>	<b>May Use</b>	<b>Description</b>
		X	Letter dated 04/05/05 from E. Goodwin to E. Posey (PC 0235)
		X	Letter dated 04/07/05 from E. Goodwin to E. Posey (PC 0393)
		X	Letter dated 04/08/05 from E. Goodwin to E. Posey (PC 0395)
		X	Letter dated 04/08/05 from E. Goodwin to E. Posey (PC 0394)
		X	Letter dated 04/08/05 from E. Goodwin to E. Posey (PC 0396)
		X	Letter dated 04/08/05 from E. Goodwin to E. Posey (PC 0397)
		X	Environmental Test Report dated 01/08/05 (PC 420-452)
		X	Environmental Test Report dated 05/02/01 (PC 0453-796)
	X		Summary of Hipster Sales (PC 0809)
		X	Letter dated 06/22/01 from Walter to Sturkie (PC0812)
		X	Impact Test data (PC 0815)
		X	Documents re Bids for Garwood Testing (PC 08819-0823)
		X	Letter dated 06/22/01 from V. Walters to T. Sturkie (PC 0830)
		X	Letter dated 07/05/01 from V. Walters to T. Sturkie (PC 0831)
		X	Posey Impact Test Results plus Memo dated 07/27/01 (PC 0852-54)
		X	Email string dated 09/25/03 from R. Carr to C. Kline (PC 0919-920)
		X	Memo re wash tested Hipsters (PC 0921)
		X	SGS U.S. Testing Test Report No. 292687 (PC 1001-1003)
	X		Posey Advertisement (PC 1025-26)
	X		Partial 2001 Posey Catalog (PC 1027-28)
	X		Partial 2002 Posey Catalog (PC 1029-30)
	X		Partial 2002 Posey Patient Safety Division Catalog (PC 1031-1032)

**POSEY EXHIBITS**

<b>Ex. No.</b>	<b>Will Use</b>	<b>May Use</b>	<b>Description</b>
	X		Partial 2003 Posey Complete Healthcare Catalog (PC 1033-35)
	X		Partial 2004 Posey Healthcare Product Selection Guide (PC 1036-37)
	X		Partial 2005 Posey Healthcare Product Selection Guide (PC 1038-39)
	X		Partial 2006 Posey Healthcare Product Catalog (PC 1040-1042)
	X		Posey Hipsters Product Inserts - M6139 (PC 1043-1052)
	X		Posey High Durability Hister Product Insert - M6127 (PC 1055-1056)
	X		Posey Hipsters Product Inserts - M6016 (PC 1057-1066)
	X		Posey EZ On Hipsters Product Inserts - M5017 (PC 1067-1072)
	X		Posey Tight Rope Walker Flyers - M6079 (PC- 1073-1096)
	X		Email dated 05/09/05 from V. Lewis to E. Posey re Hipster Literature Changes (PC 1097)
	X		Documents re M6079 (PC 1103-1110)
	X		Sample of Hipster pad (PC1111-1112)
		X	Environmental Test Report dated 07/30/03 (PC 1118-1165)
		X	Environmental Test Report dated 10/02/03 (PC 1166-1193)
		X	Environmental Test Report dated 07/07/04 (PC 1194-1247)
		X	Environmental Test Report dated 03/31/05 (PC 1248-1300)
		X	Environmental Test Report dated 09/20/02 (PC 1340-1367)
	X		Exemplars of tested pads (PC 1475-1482)
		X	Complete 2003 Guidelines for Environmental Infection Control in Health-Care Facilities (PC 1483-1731)

**POSEY EXHIBITS**

<b>Ex. No.</b>	<b>Will Use</b>	<b>May Use</b>	<b>Description</b>
	X		Posey Tight Rope Walker Flyers - M6079 (PC 1743-1750)
	X		Posey Product Instruction Sheets w/Change Notices (PC 1751-59)
		X	Articles (PC1762-69)
	X		List of M6079 Shipments (PC 1770-1787)
		X	Posey Hipsters Product Inserts w/Change Notices (PC 1814-1825)
	X		Posey Hipsters w/High Durability Pads Product Insert w/Change Notice (PC 1829-31)
	X		Posey EZ On Hipsters Product Inserts w/Change Notices - M5017 (PC 1832-1837)
	X		Photographs of Garwood testing equipment (PC1918-1920)
	X		HipSaver Flyer (PC 1922)
		X	Articles re Low Temperature Washing (PC 1927-1970)
	X		Letter dated 09/08/05 from J. Minns to Kay w/attached test results (PC 1971-1978)
	X		HipSaver Laundry Label (PC 1986)
		X	Articles re Hip Protectors and Low Temperature Washing (PC 2022-2060)
		X	Spec sheet (PC 2099-2100)
		X	TRSA - Guidelines for Healthcare Linen Service - 1999 (PC 2101-2112)
		X	TRSA - Healthcare Service Operations Manual (PC 2113-2155)
		X	Journal Articles (PC 2156-2434)
		X	Raw Material Specification (PC 2476)
		X	Rogers Technical Data (PC 2834-2856)
		X	Varous Finished Goods Change Notices For Hipsters (PC PC 2860-2892)
		X	Hipster Sales Summaries (PC 2893-2904)

**POSEY EXHIBITS**

<b>Ex. No.</b>	<b>Will Use</b>	<b>May Use</b>	<b>Description</b>
		X	Articles (PC 2905-2964)
		X	Hipster Monthly Sales (PC 2998-99)
		X	Hipsters Advertising (PC 3000-3011)
		X	Exemplars of Posey Hipsters produced at Posey's Rule 30(b)(6) depositions
	X		Exemplars of Posey Hipsters tested at Tampere
	X		Exemplars of Posey Hipster pads tested by Garwood
	X		Exemplars of the parties' respective products
	X		Expert Report of Creighton Hoffman and Philip Green (PC 3189-3206)
	X		Supplemental Expert Report of Creighton Hoffman and Philip Green
		X	Files of Creighton Hoffman and Philip Green (HA 0001-0332; HAC 0001-0299)
	X		Expert Report of Edward Ebramzadeh
	X		Supplemental Expert Report of Edward Ebramzadeh
		X	File of Edward Ebramzadeh
	X		Expert Report of Kevin Minessian
	X		Supplemental Expert Report of Kevin Minessian
		X	File of Kevin Minessian (EM 0001-0526)
	X		Exemplars of Posey Hipsters washed at directoin of Minessian
			Textbook -
	X		Expert Report of Gary Reich
	X		Supplemental Expert Report of Gary Reich
		X	File of Gary Reich (GR 0001-0452)
		X	Sales and Costs of Designated Posey Fall Management Products 2001-2005 (PC 3382-3396)

**POSEY EXHIBITS**

<b>Ex. No.</b>	<b>Will Use</b>	<b>May Use</b>	<b>Description</b>
		X	Sales and Costs of Posey Hip Protection Products 2001-2005 (PC 3397-3421)
		X	Bill to Customer Names and Addresses (PC 3422-3428)
		X	Ship to Address and Hipster Sales 2001-2005 (PC 3429-3852)
		X	Payment Application Data 2001-2005 (PC3853-3962)
		X	Posey Invoices (PC3963-64)
		X	RMA's 2001-2005 (PC 3965-4528)
		X	RMA's 2001-2005 (PC 4529-5153)
		X	Posey Tax Return - 2001 (PC 5232-5257)
		x	Posey Tax Return - 2002 (PC5204-5231)
		X	Posey Tax Return - 2003 (PC 5180-5203)
		X	Posey Tax Return - 2004 (PC 5153-5179)
		X	Posey Tax Return - 2005 (PC 5743-5767)
		X	Customer correspondence re Posey Hipsters 2001-2004 - PC 5258-5640)
		X	Hipster Video (PC 5699)
		X	List of recipients of HipSaver video (PC 5701)
	X		Finished Goods Lierature Change Order/Release Notices (PC 5712-5723)
	X		Results of Tampere testing on 06/02/06 (PC 5737-5742)
	X		Bone article (PC5768-5774)
		X	Correspondence re 06/06 Tamperer Testing (PC 5775-5816)
		X	Detailed Financial Data 2001-2005 (PC 5817-5841)
		X	Additional materials considered by Dr. Ebramzadeh (PC 5843-5887)
		X	Articles (PC 5889-5910)

**POSEY EXHIBITS**

<b>Ex. No.</b>	<b>Will Use</b>	<b>May Use</b>	<b>Description</b>
	X		Correspondence between E. Posey and J. Minns (PC 5914-5915)
	X		Wash logs (EM 527-528)
	X		Excerpt from VA manual re laundry facility operations (PC 5916-5926)
	X		Color copies of Posey advertising material (PC 5927-5938)
		X	File of Wilson Hayes (WCH 0001-0797)
	X		Washroom Time Line Report Summary (EM 527-536)
	X		Wash Formula Guides (EM 537-538)
		X	Rogers Corporation documents (R001-118)
	X		HipSaver's written discovery responses, including its initial and its supplemental responses to Posey's interrogatories, and Posey's requests for production of documents
		X	HipSaver's initial disclosure
		X	The documents and things produced by HipSaver (including HS2 0001a-0001c; HS2 000029; HS2 0038-0055; HS2 0080-0087; HS2 0151-0154; HS2 0174-0310; HS2 0325-0326; HS2 0392-0590; HS2 0592-0634; HS2 0626; HS2 0635-701; HS2 1052-2603)
		X	Textbook - Physics, (2d ed. 1989) by Ohanian
		X	TRSA Laundry textbook